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5 IN THE UNITED STATES DISTRICT COURT  
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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8 EDWARD ALVARADO, *et al.*, No. C 04-0098 SI, No. C 04-0099 SI  
9 Plaintiffs,  
10 v.  
11 FEDERAL EXPRESS CORPORATION,  
12 Defendant.

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**ORDER DENYING WITHOUT  
PREJUDICE DEFENDANT'S MOTION  
FOR DECLARATORY RELIEF**

14 On February 1, 2008, the Court heard argument on defendant's motion for declaratory relief.  
15 Defendant seeks an order holding that the lienholders may not state a claim for fees or costs against  
16 FedEx with regard to the seven settling plaintiffs. One lienholder, Kay McKenzie Parker, has filed a  
17 response to defendant's motion, asserting that the motion should be referred to the Special Master  
18 because he is currently considering many of the same issues regarding fees and costs in connection  
19 with the three plaintiffs who have prevailed at trial. Defendant opposes referral.

20 The Court finds that it is prudent to allow the Special Master to conclude his work on the  
21 matters pending before him before this Court resolves the issues raised by defendant's motion for  
22 declaratory relief. Defendant may be correct that the attorneys' fees matters before the Special  
23 Master are analytically distinct from the questions presented by defendant's motion for declaratory  
24 relief. However, the Court finds it would be premature to make such a determination without the  
25 benefit of the Special Master's decisions on the motions pending before him.<sup>1</sup> Accordingly, the

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27 <sup>1</sup> The Court is not referring defendant's motion for declaratory relief to the Special Master, nor  
28 does the Court envision that the Special Master will conduct any proceedings with regard to the issues  
raised by defendant's current motion.

1 Court DENIES defendant's motion without prejudice to renewal in this Court after the Special  
2 Master has concluded his work on the motions currently pending before him. (Docket No. 976).

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4 **IT IS SO ORDERED.**

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6 Dated: February 4, 2008

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*Susan Illston*  
SUSAN ILLSTON  
United States District Judge